d.s. 2001

(1) (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION NO. 3158 /2004

PETITIONERS

1. Khemdas Sahu, aged about 45 years, son of Late Shri Durgaram Sahu, resident of village urla, Post Mohannagar, Distt. Durg (Chhattisgarh)

P.R. No. 3155/04
Presented by Shri T.C. Tiwari
dated 9-9-04

2. Prahlad Prasad Pandey, aged about 37 years, son of Shri Chintamani, resident of Dhamdha, distt. Durg (Chhattisgarh)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through : the Secretary, Department of Revenue, D.K.S. Bhawan, Raipur (Chhattisgarh)

R

2. The Registrar, Firms and Society, Office of the Registrar, Shankar Nagar, Raipur (CG)

3. The District Collector, Durg, distt. Durg (C.G.)

R

4. ~~P.S. Tiwari, Under Secretary~~, Department of Revenue, D.KS. Bhawan, Raipur (C.G.)

RECEIVED COPY 9.9.04
Clerk to A.G. Bilaspur

Attested
27/4/05
AR(S)

Amended by per the order of hon'ble court.
27/4/05

(2) (4)

4 (5) Tribhuwan Singh Verma, aged about 41 years, son of Shri Nakul Singh Verma, resident of – Budhvihar, Shankar Nagar, Durg (CG)

(6) Thakur Kamlesh Singh, son of Khan Singh, aged about 43 years, resident of Shyama Prasad Mukharji Nagar, Sikola, Distt. Durg (Chhattisgarh)

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA, 1950 FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS ETC. AND FOR APPROPRIATE ORDER / ORDERS, DIRECTION / DIRECTIONS.

01) PARTICULARS OF THE PETITIONERS :-

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** W.P.No. 3158/04 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

14-12-2005

Shri T.K. Tiwari, Counsel for petitioners Khemdas Sahu and Prahlad Prasad Pandey.

Shri Sandeep Dubey, G.A. for the State.

Shri P. Diwakar, Sr. Counsel with Shri Bharat Rajput, counsel for respondent No. 4 Tribhuwan and respondent no. 5 Thakur Kamlesh Singh.

Heard.

The petitioners filed this petition on the ground that the respondent No. 4 Tribhuwan and respondent no. 5 Thakur Kamlesh Singh are not office bearers and yet on making false representation, their transfer was cancelled on 1-9-2004 and because of the cancellation of their transfer, the petitioners were not able to join at the place where they have been transferred.

Learned counsel for the petitioner submitted that initially on 31-7-2004, the petitioners as well as respondent No. 4 Tribhuwan and respondent no. 5 Thakur Kamlesh Singh were transferred. On being transferred, the petitioners handed over the charge and relieved from their present place of posting. Counsel submits that on 1-9-2004 an order was passed by the State canceling the transfer order of respondent No. 4 Tribhuwan and respondent no. 5 Thakur Kamlesh Singh and some others mentioning that since they are office bearers, their transfer is cancelled. Counsel for petitioners submits that they are not the office bearers.

Notices were issued in this petition and reply was filed. On 27-7-2005, after hearing the counsel for the petitioners, Dy. Advocate General for the State and Shri Bharat Rajput, counsel

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

# आदेश पत्रक

W-P-No-3158/04

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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appearing for respondent No. 4 Tribhuwan and respondent no. 5 Thakur Kamlesh Singh, the following order was passed:-

*"Learned counsel for the petitioner submits that by an order dated 31-07-2004 (Annexure P-1), the petitioner No. 1 has been transferred from Patwari Halka No. 13, Durg to Patwari Halka No. 18, Durg and petitioner No. 2 namely Prahlad Pandey has been transferred from Patwari Halka Number -8, Dhamdha to Patwari Halka Number-15, Durg. He also submits that the respondent no. 5 & 6 namely Tribhuwan Verma and Thakur Kamlesh Singh were transferred from Patwari Halka Number- 18, Durg to Patwari Halka Number-7, Durg and Patwari Halka Number-15, Durg to Patwari Halka Number-6, Dhamdha, but, they got their order cancelled by the State Govt. on a representation being made on account of being the Office bearer of Chhattisgarh Patwari Sangh. He also draw my attention on paragraph-6 of return filed by the State in which it has been stated that the aforesaid information in relation to respondent No. 5 being the elected office bearer of any such Sangh, was incorrect, misleading and false. Some other explanations have been given in this paragraph. Learned Counsel for the petitioner submits that in light of the statement made in para-6 of the return and also in the light of the transfer order of the petitioners which has not been cancelled, the petitioners may be directed to join at the respective transferred places.*

*At this juncture, learned counsel for the State submits the posting of the respondent No. 5 & 6 in the respective places where the petitioners have been transferred, has not been cancelled and the petitioners cannot join at their respective transferred places. In that situation, two persons would be posted on one place against one post. Learned counsel for the State seeks two week's time to do the needful so that the transferred places of the petitioners may be vacant for their joining.*

*As prayed, time is granted."*

[पीछे देखिये

XI-HC-22

(280)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

# आदेश पत्रक

W.P.NO- 3158/04

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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The matter was directed to be listed on 16th August 2005.

This order was passed since the State counsel expressed difficulties that the petitioners cannot join at their respective places and posting of respondents has not been cancelled and two persons would be posted on one place against one post. The State counsel took two weeks time to do the needful so that the transferred places of the petitioners may be available for their joining. On 31-8-2005, the Dy. Collector issued a transfer order of petitioners by posting them in places of respondents. The matter came up for hearing on 1-9-2005 and an application I.A. No.3377/2005 for grant of stay/interim relief was filed by the respondents regarding stay of order dated 31-8-2005, which was duly supported on affidavit Tribhuwan Singh Verma. When the matter came up for hearing on 5-9-2005, it was informed that the petitioners attempted to join the office, but respondents Tribhuwan and Thakur Kamlesh Singh locked the office and did not allow the petitioners to join. The respondents no. 1 and 2 were directed to make an enquiry and submit report.

The State through Dy. Collector has submitted report and found that the respondents 4 and 5 deliberately locked their offices to avoid hand over of the charge to the petitioners and run away.

The report filed is on behalf of the State and no counter has been filed. A perusal of the report submitted supported by the affidavit of the Dy. Collector shows that respondent no. 4 Tribhuwan Singh Verma and respondent no. 5 Thakur Kamlesh Singh deliberately locked the office and avoided hand over the charge.

[पीछे देखिये

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

# आदेश पत्रक

मामला क्रमांक W.P.No - 3158/04 सन् 200

विरुद्ध

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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Their actions as reflected in the report be examined and appropriate action in accordance with law be taken by the State.

Status quo granted on 5-9-2005 is vacated and the petitioners be allowed to join. The orders be complied with.

The petition is accordingly disposed of.

Consequently I.A. No. 7481/2005 and M.W.P. No. 3377/2005 stand disposed of.

A copy of this order be also kept in the record of W.P. No. 4219/2005 and W.P. No. 4220/2005.

Sd/-
Fakhruddin
Judge

Bathala

20.12.05 21/12/05 20/12/05

[पीछे देखिये